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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/758,115	01/16/2004	Yuji Sushima	HITA.0496	4976

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Stanley P. Fisher
Reed Smith LLP
Suite 1400
3110 Fairview Park Drive
Falls Church, VA 22042-4503

EXAMINER	
WHIPPLE, BRIAN P	

ART UNIT	PAPER NUMBER
2452	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/758,115	SUSHIMA ET AL.	
	Examiner	Art Unit	
	BRIAN P. WHIPPLE	2452	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *06 February 2009*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-25* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-25* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. Claims 1-25 are pending in this application and presented for examination.

Response to Arguments

2. Applicant's argument, see page 12, filed 2/6/09, with respect to the 35 U.S.C. 112, second paragraph rejection of claims 5 and 16, has been fully considered and is persuasive. The 35 U.S.C 112, second paragraph rejection of claims 5 and 16 has been withdrawn.

3. Applicant's arguments, see pages 12-13, filed 2/6/09, with respect to the 35 U.S.C. 102(a) rejection (as a related to the filing date of the application) and the 35 U.S.C. 102(a) rejection of claim 1, have been fully considered but they are not persuasive.

4. Applicant argues 35 U.S.C. 102(a) is improperly relied upon by the Examiner. The Examiner respectfully disagrees and points out that the language of the statute merely requires a publication date prior to the date of invention by the Applicant. The date of invention is assumed to be the earliest effective filing date absent further evidence. In this case, the effective filing date is 4/17/03. The publication date of the prior art is 4/15/03. Therefore, the rejection under 35 U.S.C. 102(a) is proper. It is true that the rejection may also be made 35 U.S.C. 102(e).

5. As to claim 1, Applicant argues the interconnection occurs outside of the network and not via the network. The Examiner respectfully disagrees with the assertion that the language excludes the clients and servers from being connected by a network, wherein the devices may not all be local to each other. The citations relied upon clearly show that the clients and servers are connected via a network, in that they communicate through the same network to reach each other. It is true they are not necessarily all members of the same shared network, but that is not required by the language of the claim.

6. Applicant's remaining arguments with respect to claims 1-25 have been considered, but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 112

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claim 5 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

9. As to claim 5, the phrase "said system configuration information retention unit" lacks antecedent basis.

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

11. Claims 1-5, 7-16, and 18-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Albert et al. (Albert), U.S. Patent No. 6,549,516 B1, in view of Official Notice.

12. As to claim 1, Albert discloses an information processing system (Fig. 2A; Col. 6, ln. 51-55) in which a plurality of server modules (Fig. 2A, items 220-223; Col. 6, ln. 56-58) and a storage module (Col. 13, ln. 16-18), which comprises a storage device (Col. 13, ln. 16-18) and a controller (Col. 13, ln. 18-21), are interconnected via a network (Fig. 2A; Col. 6, ln. 51-55),

wherein said storage module further comprises a system configuration information retention database (Col. 13, ln. 16-18);

wherein each of said server modules comprise a configuration information transmission unit (Col. 6, ln. 66 – Col. 7, ln. 4); and

wherein said storage module compares the configuration information transmitted by said configuration information transmission units with the system configuration retained by said system configuration information retention database (Col. 13, ln. 16-18), assigns a service included in the system configuration information to the at least one server module (Col. 3, ln. 33-38), and transmits data (Col. 8, ln. 63 – Col. 9, ln. 2).

Albert is silent on providing a host name, which is unique to the information processing system, in accordance with response information.

Official Notice is taken (see MPEP 2144.03) that providing a unique host name in accordance with response information was well known at the time of the invention.

A unique host name is required in order to avoid collision of data where two systems have the same host name. In order to assign a unique host name, it is inherent that response information would be sent back to a system attempting to implement a duplicative host name. Therefore, in order to avoid such a collision, the response information would ensure a unique host name.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Albert by assigning a unique host name to the information processing system in accordance with response information as was well known

in the art at the time of the invention in order to gain the above-mentioned benefit of avoiding collision of data in a network.

13. As to claim 2, Albert discloses each server module comprises an error reporting means for reporting a response error (Col. 19, ln. 47-50; Col. 20, ln. 63-65).

Albert is silent on retransmitting data if the data transmission fails and reporting a response error if a predetermined retransmission count is exceeded.

However, Official Notice (see MPEP 2144.03) is taken that retransmitting data if data transmission failed and reporting a response error if a predetermined retransmission count is exceeded was well known in the art at the time of the invention. For example, it is known that a failed data packet transmission may be repeated by the sender a set number of times in network communications and, failing proper transmission, a response error will be reported to the sender.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Albert in the aforementioned manner as was well known in the art at the time of the invention in order to attempt to retransmit a failed data transmission, so the data will hopefully be received, and failing such, report an error so that the sender knows transmission failed and may take any appropriate steps.

14. As to claim 3, the claim is rejected for reasons similar to claim 2 above.

15. As to claim 4, Albert discloses the storage module prompts a system administrator to modify said system configuration information if said response error or said assignment error is report (Col. 19, ln. 47-50; Col. 20, ln. 63-65, "forwarding agent").

16. As to claim 5, Albert discloses the configuration information transmitted by each configuration information unit includes a standardized CPU performance information (Col. 7, ln. 9-12);

said storage module comprises a conversion information retention unit (Col. 7, ln. 21-25); and

wherein said storage module compares CPU performance information converted by said conversion unit and corresponding information retained by said system configuration information retention unit (Col. 7, ln. 9-12).

Albert is silent on providing a standardized CPU name.

Official Notice is taken (see MPEP 2144.03) that providing standardized CPU name was well known at the time of the invention.

A standardized CPU name is required in order to avoid collision of data where two systems have the same host name.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Albert by providing a standardized CPU name as was well known in the art at the time of the invention in order to gain the above-mentioned benefit of avoiding collision of data in a network.

17. As to claim 7, the claim is rejected for reasons similar to claim 1 above.

Additionally, Albert discloses a reception unit (Col. 6, ln. 60-63) and a service start means for starting the service in accordance with the received data (Col. 8, ln. 49-52; Col. 8, ln. 63 – Col. 9, ln. 2).

18. As to claims 8-9, the claims are rejected for reasons similar to claim 1 above.

19. As to claims 10 and 13, the claims are rejected for reasons similar to claim 2 above.

20. As to claims 11, 14, and 24, the claims are rejected for reasons similar to claim 3 above.

21. As to claim 12, the claim is rejected for reasons similar to claims 1 and 7 above.

Additionally, Albert discloses a response means (Col. 26, ln. 42-45).

22. As to claim 15, the claim is rejected for reasons similar to claim 4 above.

23. As to claim 16, the claim is rejected for reasons similar to claim 5 above.

24. As to claim 18, the claim is rejected for the same reasons as claims 1, 7, and 12 above.

Additionally, Albert discloses a startup notification unit (Col. 3, ln. 33-38); and a reception unit (Col. 3, ln. 33-38).

25. As to claim 19, the claim is rejected for reasons similar to claim 1 above.

Additionally, Albert discloses updating the number of server modules (Col. 3, ln. 33-38).

Albert is silent on providing a host name, which is unique to the information processing system, in accordance with response information.

Official Notice is taken (See MPEP 2144.03) that providing a unique host name in accordance with response information was well known at the time of the invention.

A unique host name is required in order to avoid collision of data where two systems have the same host name. In order to assign a unique host name, it is inherent that response information would be sent back to a system attempting to implement a duplicative host

name. Therefore, in order to avoid such a collision, the response information would ensure a unique host name.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Albert by assigning a unique host name to the information processing system in accordance with response information as was well known in the art at the time of the invention in order to gain the above-mentioned benefit of avoiding collision of data in a network.

26. As to claim 20, the claim is rejected for reasons similar to claims 18-19 above.

27. As to claim 21, the claim is rejected for reasons similar to claim 13 above.

28. As to claim 22, the claim is rejected for reasons similar to claim 3 above.

29. As to claim 23, the claim is rejected for reasons similar to claim 4 above.

30. Claims 6 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Albert as applied to claims 1 and 12 above, in view of Ashok et al. (Ashok), U.S. Publication No. 2004/0003063 A1.

31. As to claim 6, Albert discloses the invention substantially as in parent claim 1, but is silent on a logical partitioning means.

However, Ashok discloses a logical partitioning means (Abstract).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Albert by including a logical partitioning means as taught by Ashok in order to prevent failure across an entire system and ensure application programs do not consume hardware resources at the expense, or starvation, of other application programs (Ashok: [0008]).

32. As to claim 17, the claim is rejected for reasons similar to claim 6 above.

33. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Albert and what was well known in the art at the time of the invention as applied to claim 20 above, and further in view of Ashok as applied to claim 6 above.

34. As to claim 25, the claim is rejected for reasons similar to claim 6 above.

Conclusion

35. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See the Notice of References Cited (PTO-892).

36. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

37. Any inquiry concerning this communication or earlier communications from the examiner should be directed to BRIAN P. WHIPPLE whose telephone number is (571)270-1244. The examiner can normally be reached on Mon-Fri (9:30 AM to 6:00 PM EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on (571) 272-3964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Brian P. Whipple
/B. P. W./
Examiner, Art Unit 2452
5/14/09

/Dohm Chankong/
Primary Examiner, Art Unit 2452